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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/826,196 | 04/16/2004 | Mark Edin | S63.2-11395-US01 | 9799 |
| 490 | 7590 | 04/03/2006 | EXAMINER | |
| VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185 | | | CRANE, DANIEL C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3725 | |

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/826,196 | Applicant(s) EDIN, MARK | |
| | Examiner Daniel C. Crane | Art Unit 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,24-27 and 30-35 is/are allowed.
- 6) ☒ Claim(s) 1,10-17,19-22 and 28 is/are rejected.
- 7) ☒ Claim(s) 2-5,7-9,18,23 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

REJECTION OF CLAIMS OVER PRIOR ART

Claims 1, 10, 13, 14, 17 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Velarde (4,304,116). See Figures 1, 7 and 8 where the device comprises a first body portion 34, a second body portion 96 and a plurality of movable blades 37, 38 and 40 with blade 38 and 40 pivotally mounted to the first body portion 34 and slidably engaged with the second body portion 96. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. As to the method claims, these claims are met since Velarde's crimping operation is used on aerosol containers and aerosol containers are used in the medical field. Thus, Velarde's process involves a method for reducing the diameter of "medical devices".

Claims 11, 12, 15, 16 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Velarde (4,304,116). While Velarde does not indicate the thickness dimension of the blades, it is the examiner's position that such dimension selection would have been made based on the workpiece size being crimped. Clearly, workpieces of a thin nature would require blades of a thin construction and workpiece of a thicker nature would require thicker blades. Accordingly, the skilled artisan having the benefit of Velarde's device would have recognized the sizing of the blades to the appropriate size of the workpiece.

INDICATION OF ALLOWABLE SUBJECT MATTER

Claims 6, 24-27 and 30-35 are allowed.

Claims 2-5, 7-9, 18, 23 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

RESPONSE TO APPLICANT'S AMENDMENT

Applicant's response has been carefully considered, however, applicant's comments are moot in light of the new grounds of rejection, such rejection having been necessitated by applicant's response.

FINAL OFFICE ACTION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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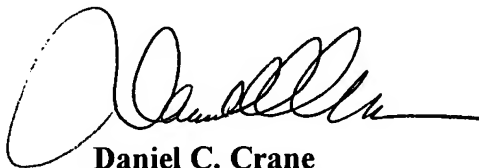
calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is **(571) 272-4516**. The examiner's office hours are 6:30AM-5:00PM, Tuesday through Friday. The examiner's supervisor, Mr. Derris Banks, can be reached at **(571) 272-4419**.

Documents related to the instant application may be submitted by facsimile transmission at all times to Fax number (571) 273-8300. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Examiner's Fax number is **(571) 273-4516**.

DCCrane
March 28, 2006

A handwritten signature in black ink, appearing to read 'Daniel C. Crane', with a large, stylized initial 'D'.

Daniel C. Crane
Primary Patent Examiner
Group Art Unit 3725